**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,   Case No. 3:04-cr-131

                Plaintiff,   Judge Thomas M. Rose

v.

CHRISTOPHER RODGERS,

                Defendant.
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**ENTRY AND ORDER OVERRULING OBJECTIONS (DOCS. 58, 63); ADOPTING
REPORT AND RECOMMENDATIONS (DOC. 55) AND SUPPLEMENTAL
REPORT AND RECOMMENDATIONS (DOC. 61); AND DISMISSING MOTION
TO VACATE PURSUANT TO 28 U.S.C. § 2255 (DOC. 53) WITH PREJUDICE**
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This habeas corpus case is before the Court on the Objections (Docs. 58, 63) filed by

Defendant Christopher Rodgers ("Defendant") to the Report and Recommendations ("Report")

(Doc. 55) and Supplemental Report and Recommendations ("Supplemental Report") (Doc. 61).

In both the Report and Supplemental Report, Magistrate Judge Michael R. Merz recommended

that Defendant's Motion to Vacate Sentence Pursuant to 28 U.S.C. § 2255 (Doc. 53) be dismissed

with prejudice.

As required by 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72(b), the Court has

made a *de novo* review of the record in this case. Upon said review, the Court finds that

Defendant's Objections (Doc. 58) to the Report (Doc. 55) and Objections (Doc. 63) to the

Supplemental Report (Doc. 61) are not well taken and they are hereby **OVERRULED**. The

Court **ADOPTS** the Report (Doc. 55) and Supplemental Report (Doc. 61) in their entirety and

rules as follows:

- The Court **DISMISSES** the Motion to Vacate Sentence Pursuant to 28

U.S.C. § 2255 (Doc. 53) with prejudice;

- As reasonable jurists could disagree with this conclusion in light of the newness of the issues and particularly noting Judge White's dissent in *United States v. Taylor*, 814 F.3d 340 (6th Cir. 2016), Defendant is **GRANTED** a certificate of appealability; and

- The Court further **CERTIFIES** to the Sixth Circuit that Defendant should be permitted to proceed *in forma pauperis* on appeal.

DONE and **ORDERED** in Dayton, Ohio, this Tuesday, September 13, 2016.

s/Thomas M. Rose

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THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE